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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
MUR 6640)	DISMISSAL AND
Friends of Jeff Kazanow)	CASE CLOSURE UNDER THE
and Jeff Kazanow as treasurer)	ENFORCEMENT PRIORITY
Jeffrey H. Kazanow)	SYSTEM
)	

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GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances.

The Office of General Counsel has scored MUR 6640 as a low-rated matter and has determined that it should not be referred to the Alternative Dispute Resolution Office. For the reasons set forth below, the Office of General Counsel recommends that the Commission dismiss the allegations that Friends of Jeff Kazanow and Jeff Kazanow in his

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1 official capacity as treasurer (collectively the "Committee") and candidate Jeffrey
2 H. Kazanow¹ violated the Act and Commission regulations.²

3 Complainant Robert Sterling ("Sterling") states that Kazanow's Statement of
4 Candidacy, which was filed on May 31, 2012, failed to include the year Kazanow was
5 seeking election. The Reports Analysis Division ("RAD") sent Kazanow a Request for
6 Additional Information ("RFAI") on June 6, 2012 requesting that Kazanow provide an
7 amended Statement of Candidacy by July 11, 2012, but Kazanow failed to do so. *Id.*
8 Sterling also contends that the Committee's first financial disclosure report, the 2012 July
9 quarterly report, should have been filed with the Commission by July 15, 2012, but states
10 that it was not received by the Commission until July 18, 2012. Finally, Sterling claims
11 that the Committee's website, www.kazanowforcongress.com, lacked a disclaimer stating
12 that the Committee had paid for it.³

13 Responding on behalf of himself and his Committee, Kazanow asserts that he did
14 not receive "notice" that his Statement of Candidacy was defective. Resp. at 1. After
15 having been made aware of the problem, Kazanow filed an amended Statement of
16 Candidacy.⁴ *Id.* As for his Committee's 2012 July quarterly report, Kazanow argues that

¹ Kazanow was a 2012 candidate in Georgia's 6th congressional district.

² The EPS rating information is as follows: Complaint Filed: September 7, 2012.
Response Filed: October 26, 2012.

³ Sterling also alleges that Kazanow failed to file a personal financial disclosure report with the Committee on Ethics of the U.S. House of Representatives. Compl. at 1. Kazanow states that he sent the financial disclosure report to the Clerk of the House of Representatives by letter dated October 22, 2012, via overnight mail. Resp. at 1-2. These reports, which are required by the Ethics in Government Act of 1978, do not fall within the Commission's jurisdiction. Therefore, we do not address this allegation further.

⁴ The amended Statement of Candidacy lists "2012" as the election year, see <http://doquery.fec.gov/pdf/926/12030933926/12030933926.pdf> at 2.

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1 it was delivered to a Federal Express shipping facility "on the due date of the 15th." *Id.*
2 Kazanow declares that the disclaimer allegation results from a "misunderstanding" and that
3 the Committee's website always included the phrase "© Jeff Kazanow for Congress." *Id.*
4 He states that the website now includes "'Paid for by Friends of Jeff Kazanow' to assure
5 full compliance." *Id.*

6 Principal committees of candidates for the House of Representatives, such as the
7 Committee, must file financial disclosure reports, including quarterly reports. 2 U.S.C.
8 § 434(a)(2). July quarterly reports, covering the second quarter of the calendar year, must
9 be filed with the Commission no later than July 15th. *Id.*; *see also* 11 C.F.R.
10 § 104.5(a)(1)(i). Quarterly reports sent to the Commission using registered or certified
11 mail, Priority or Express mail, or an overnight delivery service, shall be considered to be
12 "filed" as of the date of the postmark. *See* 11 C.F.R. § 104.5(e). Appended to the
13 Committee's 2012 July quarterly report is the Commission's "envelope replacement page,"
14 which discloses that the report was shipped on July 16, 2012 by "overnight delivery
15 service."⁵ Therefore, it appears that the report was filed on July 16, 2012, one day late.⁶

16 Under the Commission's disclaimer regulations, a political committee must provide
17 disclaimers on websites available to the general public stating that the committee paid for
18 the website. *See* 11 C.F.R. § 110.11(a)(1), (b)(1). Kazanow does not dispute that the
19 Committee's website failed to include the requisite disclaimer. However, the website

⁵ *See* 2012 July quarterly report, <http://docquery.fec.gov/pdf/499/12030851499/12030851499.pdf> at 12.

⁶ The Commission's website lists the filing date for the July quarterly report as "July 16, 2012," *see* <http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do>.

1 apparently included sufficient identifying information so that the public was unlikely to
2 have been misled.⁷

3 In light of the relatively limited scope of the violations, and in furtherance of the
4 Commission's priorities relative to other matters pending on the Enforcement docket, the
5 Office of General Counsel believes that the Commission should exercise its prosecutorial
6 discretion and dismiss this matter pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985).
7 The Office of General Counsel also recommends that the Commission remind the
8 Committee of the requirements of 11 C.F.R. § 104.5 concerning the timely filing of
9 financial disclosure reports. Finally, the Office of General Counsel recommends that the
10 Commission approve the attached Factual and Legal Analysis and the appropriate letters,
11 and close the file.

12 **RECOMMENDATIONS**

- 13
- 14 1. Dismiss the allegation that Friends of Jeff Kazanow and Jeff Kazanow in his
15 official capacity as treasurer violated the Federal Election Campaign Act of 1971,
16 as amended, and Commission regulations;
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 - 18 2. Dismiss the allegation that Jeffrey H. Kazanow violated the Federal Election
19 Campaign Act of 1971, as amended, and Commission regulations;
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 - 21 3. Approve the attached Factual and Legal Analysis and the appropriate letters;
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 - 23 4. Remind Friends of Jeff Kazanow and Jeff Kazanow in his official capacity as
24 treasurer of the requirements of 11 C.F.R. § 104.5 concerning the timely filing of
25 financial disclosure reports; and
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⁷ We also note that the Committee's last filed financial disclosure report was its 2013 April quarterly report, which was marked as a "Termination Report." Subsequently, the Committee failed to file its 2013 July quarterly, October quarterly, and Year-End reports, although an RFAI was sent for each missing report.


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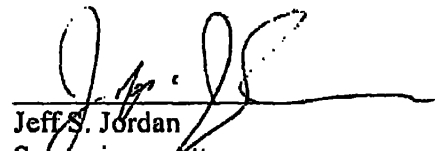
1 5. Close the file.
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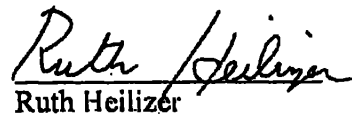
3 General Counsel
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8 3/24/14
9 Date

BY:


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